

WEST CONTRA COSTA HEALTHCARE DISTRICT

BOARD POLICY Section II - #2	Page 1 of 6
	Effective Date: 04/27/04
Subject: Bidding Policy for Construction and Public Works	Revised Date:
	Approved By:

BACKGROUND

The West Contra Costa Healthcare District (“District”) is required by California Government Code §54201, et seq. to adopt policies and procedures governing purchases of supplies and equipment. California Health and Safety Code §32132 requires the District to award to the lowest responsible bidder contracts up to established expenditure limits for (a) materials and supplies furnished to the District or (b) work to be done for the District. This lowest bid policy (“Lowest Bid Policy”) does not apply to emergency contracts, contracts for medical or surgical equipment or supplies, certain electronic goods and services, or professional services. Paragraph 5 addresses these exceptions.

1.0 General Principle of the Bidding Policy

It is the intent of the Board to provide an equal opportunity to all qualified and responsible parties wishing to participate in the bidding process. Consistent with the District’s obligations, the Board shall endeavor to obtain the best value for all expenditures.

The District recognizes that the purposes of competitive bidding are to guard against favoritism, improvidence, extravagance, fraud, and corruption; to prevent the waste of public funds; to obtain the best economic result for the public; and to stimulate advantageous market place competition.

These policies and procedures shall be interpreted to comply with all state, federal and local laws, including any amendments thereof. Copies of the policy and procedures shall be available for public distribution.

2.0 Lowest Bid Policy

The Board shall employ a lowest bid policy (“Lowest Bid Policy”), subject to the following terms and conditions:

2.1 Scope and Application of the Lowest Bid Policy

The Board shall let to the lowest responsible bidder any contract involving an expenditure of more than twenty-five thousand dollars (\$25,000), or such amount set forth in Health and Safety Code §32132, for (a) materials and supplies to be furnished, sold, or leased to the District or (b) work to be done for the District. In the alternative, the Board may reject all bids.

2.2 Exemptions from the Lowest Bid Policy

The Board shall not be required to apply the Lowest Bid Policy to (a) goods and services needed on an emergency basis, (b) medical or surgical equipment or supplies, (c) electronic data processing and telecommunications goods and services, or (d) professional services exempt under Government Code §53060. [See Paragraph 5 for policies and procedures concerning these items.]

2.3 Change orders

The Board shall not be required to secure bids for change orders that do not materially change the scope of the work or materials or supplies as set forth in a contract previously made, provided (a) the contract was made in compliance with bidding requirements, and (b) no individual change amounts to more than five percent (5%) of the contract.

3.0 Bid Conditions

All bids submitted to the Board pursuant to Paragraph 2 shall be subject to the following general conditions:

- a. Except in those cases where the health and welfare of the District’s patients would be jeopardized, a minimum of three (3) bids shall be obtained whenever possible.
- b. Contracts shall be awarded to the lowest responsible and responsive bidder where bids meet the requirements and criteria set forth in the Invitation to Bid (as that term is defined in Paragraph 4.2).
- c. The Board may accept parts of one or more bids, unless otherwise specified.
- d. The Board reserves the right to waive inconsequential deviations from the specifications in the substance or form of bids received.
- e. No illegal, unfair, unethical or otherwise improper advantage shall be accorded to any bidder by the District.

4.0 Bidding Procedures

All bids submitted to the Board pursuant to Paragraph 2 shall be subject to the bidding procedures set forth in this Paragraph 4:

4.1 Preparation of Plans, Specifications, or Description of Proposed Work

- a. Upon determination that work, materials or supplies (hereafter, “Work”) subject to bidding procedures is required by the necessity or for the convenience of the District, staff or consultants selected by the Board shall prepare plans, specifications or description (“Specifications”). Specifications shall be in such detail and written with such specificity as the nature of the Work may require. In establishing the Specifications, **the District** may consider the direct cost of the

project as well as any requirement reasonably related to the quality, fitness and capacity of a bidder to satisfactorily perform the proposed Work. Specifications may be sold to potential bidders at cost or lent to potential bidders upon their furnishing such security as the replacement value of the Specifications may indicate.

- b. If the nature of the Work so requires, the Specifications shall include a requirement that each bidder provide a bid guarantee at a specified percentage of its bid, assuring that (a) it will not withdraw its bid for a period of sixty (60) days (or such period as deemed appropriate) after the scheduled closing time for the receipt of bids, and (b) it will enter into contract, if awarded such contract. Such guarantee may be in the form of (i) a bid acceptable to the District, (ii) a certified check payable to the order of the District, or (iii) currency. The Board shall delegate to management the authority to determine if the nature of the Work requires bid security and, if so, the amount. Such determination will include consideration of the value and nature of the Work and the firms expected to submit bids.
- c. If the nature or performance of the Work is such that pre-qualification of bidders is necessary or desirable, such pre-qualification may be required. The Specifications shall include procedures for such pre-qualification.
- d. When appropriate, the successful bidder shall furnish a performance bond in the amount of one hundred percent (100%) of the contract sum at the time of entering into the contract. The performance bond shall be filed with the District to insure the District against faulty, improper or incomplete materials or workmanship, and to insure the District of complete and proper performance of contract.
- e. When appropriate, the successful bidder shall furnish a labor and material bond in the amount of one hundred percent (100%) of the contract sum by at the time of entering into the contract. The labor and material bond shall be filed with the District pursuant to applicable laws of the State of California.

4.2 Request for Bids

Where bidding is required or deemed desirable, the District shall invite bids by a notice publicized by at least one (1) of the following methods:

- a. An announcement or notice inviting bids from qualified bidders, published on two (2) consecutive days in a newspaper of general circulation printed and published in Contra Costa County;
- b. An announcement or notice inviting bids from qualified bidders, published on two (2) consecutive days in a newspaper of broader circulation than that specified in subparagraph (a) above;

- c. In addition to (a) or (b), an announcement or notice in an appropriate trade publication;
- d. In addition to (a) or (b), an individual invitation to bid to parties reasonably believed to be able to undertake the performance of the Work.

Any announcement, notice or invitation (“Invitation to Bid”) shall be published or mailed at least fourteen (14) days prior to the date fixed for opening the bids.

4.3 Requirements of Invitation to Bid

The Invitation to Bid shall:

- a. Describe the contemplated Work;
- b. Set forth the procedure by which potential bidders may obtain copies of the Specifications;
- c. State the final date and address for submission of bids (including designation of appropriate person or office);
- d. If applicable, include procedures for pre-qualification and information relating to bid guarantee;
- e. State the date, time and place for opening of bids;
- f. Set forth any bond requirements; and
- g. Set forth such other matters, if any, as would reasonably enhance the number and quality of bids

4.4 Preparation and Submission of Bids

Bids shall be in writing and shall refer specifically to the contemplated Work. Bids shall be transmitted to a person or office designated by the District in the Invitation to Bid. All bids shall remain sealed until the date and time set forth in the Invitation to Bid.

4.5 Examination and Evaluation of Bids

- a. Opening of bids shall take place as soon as reasonable after the hour set for delivery at a time and place stated in the Invitation to Bid. A member of the Board, or a person designated by the Board, will attend and officiate over the opening of bids (“Opening”). The bids will be made public for bidders and others properly interested parties who may be present at the Opening.
- b. The Board reserves the right not to determine the low bidder at the Opening, to

obtain the opinion of counsel on the legality and sufficiency of all bids, and to determine at a later date which bid to accept. Such determination shall be made within sixty (60) days of the Opening or unless a different period of time is specified in the Invitation to Bid.

4.6. Awarding of Contracts

- a. The Board shall award the contract to the lowest bidder, provided such bid is responsive and reasonable and meets the requirements and criteria set forth in the Invitation to Bid as determined by the Board. Factors which the District may take into account to determine whether a bidder is ‘responsible’ include prior performance, financial capacity, technical expertise, other similar factors, and factors that may be set forth in bid specifications.
- b. If it determined that the lowest bidder is not responsible, the Board may award the contract (i) to the next lowest responsible bidder, or (ii) to the lowest bidder on the condition that the lowest bidder furnish security other than or in addition to that set forth in the Specifications.
- c. If the Board decides to award the contract for the performance of work to a bidder other than the lowest bidder, the Board shall first notify the low bidder of any evidence reflecting upon its responsibility, received from others or adduced as a result of an independent investigation. The District shall afford the low bidder an opportunity to rebut such adverse evidence and shall permit it to present evidence that it is qualified to perform the contract. Such opportunity to rebut adverse evidence and to present evidence of qualification may be submitted in writing or at an informal hearing before the awarding body, committee and/or individual.
- d. Any contract awarded by the Board is subject to all provisions of the law regulating and controlling the performance of work by political subdivisions of the State of California, and rules of law shall prevail over any provisions contained in the contract documents which may be in conflict thereto or inconsistent therewith.

5.0 Exemptions to the Lowest Bid Policy

The Board shall not be required to apply the Lowest Bid Policy to (a) emergency contracts, (b) contracts for medical or surgical equipment or supplies, (c) electronic data processing and telecommunications goods and services, (d) professional services exempt under Government Code §53060.

Subject to the terms and conditions of this Paragraph 5, the Board may employ the following policies and procedures with respect to the following subject matter.

5.1 Emergency Contracts

Notwithstanding anything to the contrary, the Board may let contracts for work to be done

or for materials and supplies to be furnished, sold or leased to the District without following the Lowest Bid Policy, if it first determines (a) an emergency exists that warrants such expenditure due to fire, flood, storm, epidemic or other disaster and (b) it is necessary to protect public health, safety, welfare or property.

5.2 Medical or Surgical Equipment and Medical or Surgical Supplies

The Board may establish policies with respect to the procurement of medical or surgical equipment or supplies without following the Lowest Bid Policy. “Medical or surgical equipment or supplies” includes only equipment and supplies commonly, necessarily and directly used by or under the direction of a physician and surgeon in caring for or treating a patient in a hospital.

5.3 Electronic Data Processing and Telecommunications Goods and Services

- a. Consistent with Health & Safety Code §32138, the Board shall employ competitive means to acquire electronic data processing and telecommunications goods and services, where such goods and services exceed a cost of twenty-five thousand dollars (\$25,000).
- b. For the purposes of this Paragraph 5.3, “competitive means” includes any appropriate means specified by the Board including, but not limited to, the preparation and circulation of a request for proposal to a sufficient number of qualified sources to permit reasonable competition consistent with the nature and requirements of the proposed acquisition, as determined by the Board in its reasonable discretion.
- c. The Board shall award a contract pursuant to this Paragraph 5.3 based on the cost-effectiveness of the proposal as determined by the evaluation criteria specified by the Board. Evaluation criteria shall not be limited to cost but may include other objective bases for selection of a vendor or service provider.
- d. Notwithstanding any provision to the contrary, this Paragraph 5.3 shall not apply when the Board determines that (a) the goods and services being considered are the only goods and services that can meet the District’s needs, or (b) the goods and services are needed in cases of emergency where immediate acquisition is necessary for the protection of the public health, welfare or safety.

5.4 Professional Services

- a. Consistent with Government Code §53060, the District may contract with and employ any person(s) to furnish to the District special services and advice in matters including, but not limited to, financial, economic, accounting, engineering, legal, architectural or administrative, provided such persons are specially trained and experienced and competent to perform the special services required. No competitive bidding shall be required; however, the District may establish when appropriate procedures for the project to assure that these services

are engaged on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required.

- b. District employees participating in the selection process for the engagement of these professional services shall adhere strictly to Government Code conflict of interest prohibitions.
- c. Any Invitation to Bid for architectural or engineering services shall contain the following statement in boldface type: “Please be advised that the successful consultant will be required to indemnify the District for the acts of consultant’s subconsultants, its agents and its employees.” (For additional information, see Public Contract Code §20103.6.)

5.5 Construction Management

The Board may adopt procedures designed to derive the benefits and advantages of using professional management oversight of a project. Such procedures need not include public bidding. Construction management arrangements may be appropriate where District participation in the review and approval of subcontractor bids can lead to substantial cost savings and serve to cap maximum costs.